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TO: All Chief Circuit Judges
cc: Family Division Judges
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FROM: John D. Ferry, Jr., State Court Administrator

SUBJ: SCAO Administrative Memorandum 2004-15
Friend of the Court Guidelines for Determining, Changing, or Suppressing
Addresses of Parties and Nonparties

This administrative memorandum establishes guidelines to assist friend of the court (FOC) offices in determining which addresses to use to: (1) serve notices and pleadings on parties and nonparties; (2) change the address of a party or a nonparty and; (3) suppress the address of a party. This applies both to addresses in an FOC's file and to addresses stored in the Michigan Child Support Enforcement System (MiCSES).

The Friend of the Court Bureau, State Court Administrative Office develops guidelines for FOC operations and procedures. FOC offices must adopt office procedures that implement the FOC Act, Supreme Court rules, and Friend of the Court Bureau policies and procedures.

Courts and FOCs should direct questions concerning this memorandum to Toni Beatty at BeattyT@courts.mi.gov or (517) 373-4835.

FRIEND OF THE COURT POLICY TO DETERMINE, CHANGE, OR SUPPRESS THE ADDRESS OF A PARTY OR A NONPARTY

A. Background.

Michigan's friend of the court (FOC) offices administer and enforce domestic relations orders concerning child support, custody, and parenting time. Some enforcement activities require serving notices and pleadings. Sometimes a party who is required to update an address with the FOC fails to do so, or a party with cases in multiple counties may update the address with only one county's FOC office.

A party may use different addresses for different purposes. Those multiple addresses must be recorded and labeled in the Michigan Child Support Enforcement System (MiCSES) for FOC enforcement activities. Pleadings and notices must be served at the address established under MCR 3.203 (the "legal address"). Where a party lives (the "residential address") may or may not be the same as the "legal address". Further, a party may have a third address for receiving mail ("mailing address"). Without more information, MiCSES cannot discern the legal significance of a particular address option. This can create a problem for FOCs who are required by law to assure that notices and pleadings are delivered in a specified manner.

Further complicating matters, other entities may put address information into MiCSES using different standards for verifying the information. Prosecuting attorneys often establish addresses. Michigan Family Independence Agency (FIA) caseworkers may input addresses. A party may provide new mailing address information to the Michigan State Disbursement Unit (MiSDU) and fail to provide the same information to the FOC. When serving notices and pleadings, an FOC must be careful to follow the applicable Michigan Court Rules. The FOC should verify an address before assuming that it is the "legal address" for service--unless the party submitted a written address change to the FOC.

FOCs have the authority and ability to administratively change a party's address in the MiCSES or to set the Family Violence Indicator (FVI) for that party's cases. Those changes should be made pursuant to policies established by the state court administrator [MCR 3.203(D)]. See MCR 3.203(E) for the method of giving notice to nonparties. MCR 3.203(F) discusses confidential addresses, and SCAO Administrative Order 2002-3 discusses setting the FVI.

The procedures for pre-judgment and post-judgment domestic relations actions require that parties and nonparties receive certain documents. Thus, the FOC having a "good" address for each party is essential to an efficient court system. This memorandum establishes guidelines for determining, changing, and suppressing the address information maintained by FOC offices.

B. Service of Notices and Pleadings on Parties.

1. Service should be made in the manner set forth in the statute or court rule requiring the service or as prescribed in an order by the court.
2. If the statute or court rule does not specify the manner of service, service should be made by first class mail to the party's last known mailing address, which may not be the same as the mailing address shown by MiCSES. As used in this memorandum and in the Michigan Court Rules, the "last known mailing address" is the address that FOCs determine is the "legal address" where legal notices should be sent if the statute or court rule does not specify something else [See Section D].

C. Service of Notices and Pleadings on Nonparties.

1. Nonparties should be served with notices and pleadings in the manner set forth in the statute or court rule requiring the service.
2. If the statute or court rule does not specify the manner of service, notices should be served by first class mail to the nonparty's last known mailing address [See Section D] and pleadings should be served by personal service or by registered or certified mail as provided by MCR 2.105.

D. Address for Service.

1. The "last known mailing address" of a party is determined by MCR 3.203.
 - a. After the entry of a judgment or order, a party's last known mailing address is the most recent address:
 - i. that the party provided in writing to the FOC, or
 - ii. that was set forth in the most recent judgment or order entered in the case, or
 - iii. that was established after an FOC office administratively changed the address. An administrative change may occur when a party with multiple cases changes an address in one FOC office and not at other FOC offices, or when an FOC becomes aware that notices and court papers are being returned as undeliverable.
 - b. Before the entry of a judgment or order (i.e. after a summons has issued and a complaint has been filed, but before there is a judgment or order that requires the parties to inform the FOC of any changes in their mailing address), a party's "last known mailing address" is the most recent address:

- i. set forth by the parties in pleadings, or
- ii. provided by a party, in writing, to the FOC.¹

c. Interstate.

When Michigan is the responding state in an interstate action, a party's address received from the other state's interstate agency is presumed to be correct if it is the only address available. FOCs should not change an existing address in MiCSES to the new interstate address without first verifying that the new address is good.

d. Incarcerated Parties.

FOCs must comply with the requirements of MCR 2.004 when mailing court documents and correspondence to a party who is incarcerated.

2. The "last known mailing address" for a nonparty is determined by MCR 3.203. It is the address provided by that nonparty to the FOC. Or, if none was provided, it is the address determined by subparagraph a, b, or c below.

- a. If the nonparty is an individual, use the address for that individual found in any regularly published directory, if mail sent to that address is not returned.
- b. If the nonparty is a partnership, use:
 - i. the address found in the county records for the partnership, or
 - ii. the address found in any regularly published directory for an individual general partner, if mail sent to that address is not returned.
- c. If the nonparty is a private corporation, domestic or foreign, use:
 - i. the address for the registered agent of the corporation, or

¹ Sometimes a party "orally" declares or affirms an address to be his/her own current mailing address during a hearing before a judge or referee. While this information appears to be reliable, Michigan Court Rules do not approve this as a method of verification. Compliance with the Michigan Court Rules requires that a party confirm the new address in "writing". Another acceptable alternative would be for the court to order the FOC to change the address as a result of the new information.

- ii. the address for an “officer” of the corporation as defined in MCR 2.105. A list of the officer’s names can usually be found in the annual report for the corporation.

If the corporation has failed to maintain a registered agent or appoint officers, or its term of existence has expired, service may be made by registered mail to the corporation or an appropriate corporate officer and to the Michigan Corporation and Securities Bureau. MCR 2.105(D)

E. Changing Addresses of Parties or Nonparties.

1. By request.

The FOC should change the address for a party or nonparty at the written request of that person. The FOC may provide a simple change of address form such as approved SCAO form **FOC 108**, “Change in Personal Information” which was developed for this purpose and is attached as Appendix A, or the FOC can accept a written request signed by the person requesting the change.²

Any FOC can change an address in MiCSES. Since MiCSES is a statewide system, the address entered by one FOC office in MiCSES will affect all FOC offices with cases involving the same person. The following procedures should be used to ensure that the proper address is entered:

- a. When a person requests that an FOC change that person’s address, the request must be made in writing.
- b. *If the address change is not made at the written request of the person whose address is being changed*, the FOC must verify that the old address is bad and that the new address is good. If the FOC can only verify that the current address is bad, but cannot verify that the purported new address is good, then the bad/current address must remain as the “last known mailing address until verification of the good address can be obtained. Until verification, the new address should not be put into MiCSES.”³

² Should an FOC receive a written request from a party requesting an address change, *and the request is not received on SCAO form FOC 108*, the FOCB recommends that the FOC change the address and also inform the party that the address change will affect the addresses on all of his/her child support cases in Michigan. It is acceptable to provide this notice to parties through the FOC handbook or other publications routinely distributed to parties.

³ Status codes are available within the MiCSES. For example, MiCSES users can enter an address into the system and code it as “P”, which indicates that verification of the address is pending. Another type of code used in MiCSES is a V”, which indicates that other verification has been sent (e.g. employer verification)

- c. When a MiCSES user selects the “other” category as a reason code for making an address change, a note screen may appear which requires that the FOC, and any other users, detail specific information regarding the address change. This documentation will help all MiCSES users identify the source of new address information and assist FOCs in determining whether the change complied with Michigan Court Rules.

2. At the FOC’s initiative.

The FOC must change a person’s address on its own initiative under either of the following circumstances:

- a. When the address of record results in mail being returned as undeliverable and the FOC becomes aware of another address.

Under this circumstance, the FOC should verify that the current address is bad and that the new address is good.

When entering address change information into MiCSES, the FOC should make sure that all fields, including the note field where applicable, are completed. All MiCSES users should be able to easily determine the date that an address has been changed, who changed the address, and the reason for the change. The FOC should attempt to secure a written confirmation of the address change from the addressee.

New address information received from a third person (including the other party in the case) must be verified before an administrative change of address can be completed and before the information may be entered into the MiCSES.

- b. When a party changes an address at an FOC office, the address change is effective for all dockets for that party. The party should make the request in writing. When the FOC enters a new address into MiCSES, it is important that the FOC (**and all MiCSES users**) double check to be sure that the date the address was put into MiCSES is reflected. This will ensure that the most recent address is readily apparent. Numerous events that affect the same party may be occurring in different counties at the same time. Paying attention to the dates of actions, as reflected in MiCSES, assists FOCs in determining compliance with the requirements of MCR 3.203.

and a response is pending. MiCSES users should not assume that information is confirmed until all flags are removed.

Address changes should be clearly documented. Routine address changes can be accomplished using the MiCSES list of values which inform other MiCSES users as to why a change was made. If the user selects the “other” category or is coding an address as “bad”, further documentation may be requested by the system. Accurate information in MiCSES is critical to assuring that all users can meet the standards and requirements of their respective agencies.

F. Confidential Addresses.

MCR 3.218 grants parties, guardians, and their attorneys access to FOC records, except confidential information but SCAO Administrative Memorandum 2003-07 prohibits releasing location information when the FVI has been set on the case. These and other confidential addresses should be handled as indicated below.

1. For addresses suppressed by court order (including foreign court orders).

The FOC must follow the requirements of MCR 3.203. It is the obligation of the party whose address is being suppressed to provide the FOC with an alternate address. Until an alternate address is received, the FOC should treat the current address as confidential. FOCs may distribute and make available the above referenced approved SCAO form, FOC 108, to collect alternate address information.

FOCs may release the alternate mailing address to the other party, or the court may order another method to allow the parties to serve pleadings and notices without divulging the suppressed address. The alternate address is the “legal address” for service of notices and court papers.⁴

2. For addresses suppressed by MiCSES because of a sworn statement, federal parent locate status, or other Child Support Enforcement Network information with an address non-disclosure code has caused the Family Violence Indicator (FVI) to be set.⁵

⁴ The alternate address may be a trusted relative or person that a party feels secure in allowing to receive notices and pleadings on his behalf. In unique situations, the court may order the FOC office to be listed as the alternate address. Under this option, if the order so provides, the FOC would be responsible for forwarding notices and pleadings to the parties.

⁵ In 1996, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) modified Title IV-D to require states participating in the program to protect individuals against domestic violence. Information obtained (or obtainable) through the IV-D program is confidential when the release of the information may result in physical or emotional harm to a party or child [42 USC 654(26)]. Title IV-D program participants are alerted that physical or emotional harm is possible by the presence of the FVI [45 CFR 307.11(f)(1)(x)] in the federal case registry. The FVI is required to be set in a case when a personal protection order is entered with respect to a party or child in a case, or when a participant in the IV-D program has reason to believe that the release of information concerning a person may result in physical or

The FOC should follow the requirements of MCR 3.203 and request an alternate address from the person whose address is made confidential for reasons other than a court order. The FOC may release the alternate address to a party, or the court may order another method to allow the parties to serve pleadings and notices without divulging the confidential address.

G. Special MiCSES Consideration.

As this policy illustrates, a statewide computer system creates critically important responsibilities for FOCs, OCS, PA's and other affected agencies. Incompatible procedures practiced by one agency can inadvertently cause another agency to violate, or to be in noncompliance, with a state or federal law, requirement or standard. For FOCs, the need for a coordinated effort is most apparent with address changes.

It is important that all MiCSES users coordinate efforts respecting a change of address. Although this policy only addresses FOC change of address requirements, FOCs must recognize that addresses in MiCSES are impacted by the actions of other agencies and a domino effect can result. Following the courtrules, the following is an example of a possible scenario that could occur:

An FOC has a case with a good legal address. A PA receives a court action referral (CAR) containing a statement that the address of a person on the FOC case is different. If the prosecutor issues process on the address in the CAR, it will change the FOC address in MiCSES without the party having requested a change in writing, to the FOC.

emotional harm to a party or child [42 USC 654(26)(B and C)]. When the FVI is set for a case, states must prohibit the release of information on the whereabouts of the endangered party or child.

The FVI is a member-based (not case-based) data element. During conversion to MiCSES, the FVI was incorrectly set for approximately 29,000 individuals. MiCSES currently will automatically suppress the address of the protected party and ten generations of dependent children associated with a "confidential" case. This means that a suppressed address will also be suppressed for all other cases that the party has and all of the cases of the party's children, grandchildren etc. to the 10th generation. It has been recommended that this standard be adjusted to two generations in MiCSES and that change is expected to be enacted in the future.

Simply stated, this glitch causes many addresses to be classified as confidential when there is no reason to do so. An FOC who attempts to change the FVI must use caution. Changing the FVI on one case will automatically change the confidential protection in other case(s). For a party with multiple cases, one of which may involve domestic violence, removing the confidential status may trigger the release of information in a case where the protection is needed. OCS has issued Michigan IV-D Action Transmittal 2004-018 with information on the FVI, FVI codes and the confidential address indicator at <http://mi-support.mfia.state.mi.us/policy/stateat/pdf/2004-018.pdf>

In the above example, the FOC should work with local PAs to ensure that 1) some action is taken to confirm that mail is being returned from the FOC address (such as a postal verification), or 2) process issues to the FOC address in MiCSES. Either of these procedures will maintain the integrity of the legal address information in the system. If process is issued to the FOC address, the party can still be served at another address. If this happens, the address in the pleadings will still be the legal address until the party changes the address by filing a responsive pleading.⁶

⁶ The final order can also include the party's latest address. If the party never files a responsive pleading, it is impossible to know that the party wants the address of service to replace the party's legal address. The address of service could be a non-residential address such as a place of employment, a friend's house, or other non-permanent address. For this reason, the court rules deliberately excluded the address of the place of service as an address to which notices and pleadings should be sent. Instead, the court rules contemplated the statutory requirement on a party to change the party's address with the FOC and the duty of a party to provide correct information to the court through pleadings.

APPENDIX A

<http://courts.michigan.gov/scao/courtforms/domesticrelations/focgeneral/foc108.pdf>